



## Town of Niagara-on-the-Lake

1593 Four Mile Creek Road  
P.O. Box 100, Virgil, ON L0S 1T0  
905-468-3266 www.notl.com

**REPORT #:** CDS-25-007  
**COMMITTEE DATE:** 2025-01-14  
**DUE IN COUNCIL:** 2025-01-28  
**REPORT TO:** COTW-Planning  
**SUBJECT:** Engineering Function and Review Services in Niagara – Memorandum of Understanding

### 1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council **RECEIVES** and **ENDORSES** the Engineering Function and Review in Niagara Memorandum of Understanding between the Town of Niagara-on-the-Lake and the Regional Municipality of Niagara ("Niagara Region"), attached as **Appendix I**; and
- 1.2 The Town Chief Administrative Officer (CAO) **BE AUTHORIZED** to sign the Memorandum on behalf of the Town upon the date of provincial proclamation for the amendments to the *Planning Act* related to upper-tier municipal engineering responsibilities.

### 2. EXECUTIVE SUMMARY

- Bill 23 received Royal Assent on November 28, 2022.
- Bill 23 made significant changes to the *Planning Act*, with specific impacts concerning the removing of upper-tier planning responsibilities. It has now been determined that proclamation for removal of land use planning responsibilities from Niagara Region will occur on March 31, 2025.
- As a result of this change, the Region organized facilitated discussions with Area Municipal representatives from Planning and Public Works to prepare a Planning Service Agreement and a Memorandum of Understanding related to Engineering Function and Review in Niagara.
- The Planning Service Agreement prepared by the Region was endorsed by the Town on September 26, 2023.
- The Engineering Function and Review Memorandum of Understanding sets out the roles and responsibilities between the Region and Area Municipalities related to engineering review of development applications, as well as application review process.
- Staff support the Memorandum of Understanding and recommend its endorsement to come into effect upon proclamation.

### 3. PURPOSE

The purpose of this report is to provide information to Council on discussions amongst local municipalities and the Region related to shared planning service and the associated engineering functions. Through these discussions, the Region has prepared an Engineering

Function and Review Memorandum of Understanding (the “MOU”) that outlines the terms of regional engineering service once Bill 23 changes to upper-tier municipal planning responsibilities receives proclamation. This engineering service is specific to the review of planning and development applications.

#### **4. BACKGROUND**

The Town, other local area municipalities, and the Region are currently subject to a general Memorandum of Understanding that was prepared in 2019, attached as **Appendix II**. This document outlined planning and engineering roles and responsibilities related to planning applications and review functions.

In October 2022, the Province released Bill 23, an omnibus bill which proposed many significant changes to the *Planning Act*. Bill 23 received Royal Assent on November 28th, 2022. One of the many changes made to the *Planning Act* through Bill 23 is the removal of planning responsibilities for several upper-tier municipalities, including the Niagara Region. On November 5, 2024, Town Staff were notified that the removal of land use planning responsibilities from Niagara Region is set to occur on March 31, 2025.

This change to planning responsibilities will mean that much of the planning and planning-related functions that Niagara Region currently does will be downloaded to local municipalities. Although the planning responsibilities will be removed, the *Planning Act* change will continue to allow upper-tier municipalities to provide advice and assistance to a lower-tier municipality if agreed to by the Council of a lower-tier municipality. This change extends to the associated engineering review function required for planning applications.

In anticipation of this change, Town Public Works Officials and Planning Staff, along with representatives from Niagara Region and other area municipalities met several times to discuss the transition in planning review functions, and the associated engineering review function, that Niagara Region has traditionally performed.

Matters related to regional planning roles are laid out in the Service Agreement (**Appendix III**), which was endorsed by Town Council on September 26, 2023. The Service Agreement for planning matters sets out the specialized planning assistance that the Town will seek from the Region to support our local review process. The Service Agreement is to be signed upon proclamation. It will come into effect 90 days after proclamation is announced for Niagara Region becoming an upper-tier without planning authority and expire 90 days following the next municipal election. Given that the Service Agreement has been considered and endorsed by Town Council, the scope of this report is on the Memorandum of Understanding related to engineering review function for planning applications.

#### **5. DISCUSSION / ANALYSIS**

The new Engineering Function and Review MOU applies to lands within the Regional Municipality of Niagara, where water and wastewater servicing and transportation networks are operated under a two-tier system, the following table outlines responsibilities of the Region and Town related to these matters:

Niagara Region	Town of Niagara-on-the-Lake
<ul style="list-style-type: none"> <li>• Water treatment</li> <li>• Transmission mains</li> <li>• Major pumping stations</li> <li>• Wastewater treatment</li> <li>• Trunk sewers</li> <li>• Sewage pumping stations</li> <li>• Regional roads</li> <li>• Circulation to Niagara Regional Transit for large developments</li> <li>• Private sewage systems review</li> <li>• Waste/recycling collection</li> <li>• Stormwater management related to: <ul style="list-style-type: none"> <li>○ Regional roads</li> <li>○ Regional storm sewers</li> <li>○ Regulated features</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Local water distribution networks</li> <li>• Local sewer collection systems</li> <li>• Local storage facilities</li> <li>• Local roads</li> <li>• Stormwater management related to: <ul style="list-style-type: none"> <li>○ Local roads</li> <li>○ Local storm sewer drains or easements</li> <li>○ Unregulated features</li> <li>○ Regulated features (in consultation with the NPCA)</li> </ul> </li> </ul>

Based on the above, the regional engineering review will be limited to the review of Regional infrastructure and capacities available in said infrastructure. The new MOU also notes that the Town may request the Region's review of any stormwater management matters.

The new Engineering Function and Review MOU has been reviewed, refined, and endorsed by the local municipal Public Works Officials and Planners. The new Engineering Function and Review MOU (**Appendix I**) would replace the current 2019 MOU (**Appendix II**) between the Region and all area municipalities upon proclamation.

The Engineering Function and Review MOU provides direction in three (3) main parts. Discussion on these parts is below.

### Part 2 – Roles and Responsibilities of the Parties

The Engineering Function and Review MOU specifies the following roles and responsibilities of the Region related to engineering review of planning applications.

#### Transportation:

- Prepare Terms of Reference for Transportation Studies for new growth area
- Prepare Traffic Impact Study Guidelines
- Prepare Noise Abatement Guidelines to address noise generated from Regional Roads
- Prepare Right-of-way and Urban Design Guidelines

#### Planning Applications:

- Engineering review will be completed once the application has been circulated and in accordance with current Planning requirements
- Review of infrastructure will be reviewed by the respective owner of said infrastructure

The review of the stormwater system will be based on a chart contained in the MOU.

Part 2 of the Engineering Function and Review MOU also notes that policies contained in the Niagara Official Plan (the “NOP”) with respect to infrastructure shall be retained and implemented in future local Official Plans to ensure that growth and development is coordinated with the delivery of Regional water and wastewater infrastructure. Town Staff are preparing a Detailed Work Plan to inform the requirements and steps to adopt a new/updated Official Plan. Such items include conformity of the Official Plan with the NOP, integration of the NOP into the Town Official Plan. Matters related to infrastructure, and infrastructure policies, will be considered and addressed through the Town Official Plan update work.

### Part 3 – Development Application Review Processes

Part 3 of the Engineering Function and Review MOU provides clarification regarding the development application review process, including pre-consultation, circulation/timelines, required studies and scoping of studies, exemptions from review by the Region, fees, complete application submission requirements and timelines, and application review and commenting.

These processes have been updated to align with Provincial direction (e.g., encouraged by not mandatory pre-consultation meetings). The timing for the Region to provide comments on pre-consultation meetings and development applications has been revised or extended for certain proposals in alignment with the Service Agreement. All other application timelines remain the same as the current MOU. Town Staff will continue to work with the Region to meet the target timeline for comments on planning applications.

### Part 4 – MOU Terms and Implementation

Part 4 of the Engineering Function and Review MOU discusses the Terms and Implementation of the MOU itself. The MOU is to remain in effect until such time as it is replaced by an updated MOU; a mandatory review of the MOU shall occur every 5 years.

Where there is overlap amongst responsibilities of the parties, the parties shall work together to provide consistent and sound comments. The Town collaborates with the Region on a regular basis regarding any overlap in existing responsibilities.

Where there is a conflict between new (changing) legislation and the new MOU, the new legislation would take precedence.

The Engineering Function and Review Memorandum of Understanding was endorsed by Regional Council, authorizing its signing by the Region’s Chief Administrative Officer on October 24, 2024. The MOU will take effect on the last date that it is signed by the Parties to the MOU.

## **6. STRATEGIC PLAN**

The content of this report supports the following Strategic Plan initiatives:

### Pillar

#### 1. Vibrant & Complete Community

## **Priority**

### 1.1 Planning for Progress

## **Action**

### 1.1 b) Planning for Progress Initiatives

## **7. OPTIONS**

- 7.1 **Option 1:** That Council endorse the Memorandum of Understanding and direct the CAO to sign the Memorandum. **(Recommended)**
- 7.2 **Option 2:** That Council reject the Memorandum of Understanding. This option is not recommended as the document identifies the roles and responsibilities of the Town and Region with respect to engineering review and confirms the timelines for providing comments on planning applications. This clarification is necessary to ensure that planning reviews are conducted in a timely and organized manner and to ensure transparency to the public with respect to anticipated timelines. *(Not Recommended)*

## **8. FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report. All fees for service review by the Region were established in the Service Agreement and/or are subject to the Regional fee schedule as approved by Regional Council.

## **9. ENVIRONMENTAL IMPLICATIONS**

There are no direct environmental implications associated with this report. The Region, Niagara Peninsula Conservation Authority (the “NPCA”) and Town will retain review function of stormwater management matters as it relates to regulated watercourses. Town Staff will continue to consult with the NPCA on these items. The MOU also notes that the Town may request the Region’s review of any stormwater management matters.

## **10. COMMUNICATIONS**

The Town participated in facilitated discussions with area municipalities and the Niagara Region. Staff also participated in one-on-one discussions with the Region to review the Memorandum’s details and municipal needs. Further, the Memorandum was discussed with the respective municipal partners, including Area Planners and Public Works Officials.

## **11. CONCLUSION**

The Engineering Function and Review MOU is proposed to replace the current MOU, approved and endorsed in 2019. The Engineering Function and Review MOU discusses matters related to the review of engineering matters for planning applications, as well as outlining process and timing for the review of planning applications. Matters related to the Region’s planning role have been addressed through the Town Council-endorsed Planning Service Agreement.

The new MOU will assist the Town in efficiently and effectively transitioning planning and associated engineering review services once proclamation takes effect on March 31, 2025.

Staff support the MOU and recommend that Town Council endorse the MOU and authorize the CAO to sign the Memorandum.

**12. PREVIOUS REPORTS**

- CDS-23-204 – Planning Service Agreement with the Regional Municipality of Niagara (September 19, 2023)

**13. APPENDICES**

- **Appendix I** – Engineering Function and Review Memorandum of Understanding
- **Appendix II** – Memorandum of Understanding for Planning Function and Services between Niagara Region and Local Area Municipalities (December 4, 2019)
- **Appendix III** – Planning Service Agreement with the Regional Municipality of Niagara (September 19, 2023)

Respectfully submitted:

**Prepared by:**



**Aimee Alderman, MCIP, RPP**  
**Manager of Development Planning**

**Recommended by:**



**Kirsten McCauley, MCIP, RPP**  
**Director of Community & Development Services**

**Submitted by:**



**Bruce Zvaniga**  
**Chief Administrative Officer (Interim)**